

# The Commonwealth of Massachusetts DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 08-30-A October 1, 2008

Petition of Fitchburg Gas and Electric Light Company d/b/a Unitil for approval by the Department of Public Utilities of its 2008 Revised Energy Efficiency Plan.

APPEARANCES: Gary Epler, Esq.

6 Liberty Lane West

Hampton, New Hampshire 03842

FOR: FITCHBURG GAS AND ELECTRIC LIGHT COMPANY,

D/B/A UNITIL

Petitioner

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## I. <u>INTRODUCTION</u>

On June 18, 2008, Fitchburg Gas and Electric Light Company, d/b/a Unitil ("Unitil" or "Company") filed with the Department of Public Utilities ("Department") its electric energy efficiency plan for calendar year 2008 ("2008 Plan"). The Company filed its 2008 Plan pursuant to G.L. c. 25, § 19, G.L. c. 25A, § 11G, and Order Promulgating Final Guidelines to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100 (2000) ("Energy Efficiency Guidelines"). The Department docketed this matter as D.P.U. 08-30.

By Letter Order dated July 25, 2008, the Department directed all Massachusetts energy efficiency Program Administrators<sup>2</sup> to submit a proposal to increase spending for residential heating programs for the 2008 winter season, stating that "there is an urgent need to expand funding for existing residential gas and electric energy efficiency programs in order to respond to the potential for very high heating costs in the coming months." Request to Increase Funding for Residential Energy Efficiency Programs, Letter Order (July 25, 2008) ("Letter Order").<sup>3</sup>

On that same date, an offer of settlement ("Settlement") was submitted jointly by Unitil, Associated Industries of Massachusetts, the Conservation Law Foundation, the Low-Income Energy Affordability Network including Montachusett Opportunity Council, and the Northeast Energy Efficiency Council.

Program Administrators are those entities that administer energy efficiency programs, including distribution companies and municipal aggregators. Energy Efficiency Guidelines § 2.

The Letter Order was issued in response to a request made to the Department by the Department of Energy Resources in a letter dated July 16, 2008.

Unitil submitted its proposal on August 15, 2008 ("Revised Plan"). The Department requested comments on all Program Administrators' Revised Plans by August 25, 2008.

Request to Increase Funding for Residential Energy Efficiency Programs, Hearing Officer Memorandum (August 1, 2008). Comments were received from Associated Industries of Massachusetts ("AIM"), the Attorney General of the Commonwealth of Massachusetts ("Attorney General"), the Conservation Law Foundation ("CLF"), the Massachusetts Department of Energy Resources ("DOER"), Environment Northeast ("ENE"), the Low-Income Energy Affordability Network ("LEAN"), and Wal-Mart Stores East, L.P. ("Wal-Mart"). The Department requested reply comments on all Program Administrators' revised plans by September 5, 2008. Request to Increase Funding for Residential Energy Efficiency Programs, Hearing Officer Memorandum (August 27, 2008). Reply comments were received from Unitil, ENE, LEAN, and The Energy Consortium ("TEC"). The evidentiary record includes twelve responses to information requests.

On September 19, 2008, the Department approved the 2008 Plan as initially filed, finding that, among other things, the Company (1) calculated program cost-effectiveness consistent with the Energy Efficiency Guidelines, and (2) demonstrated that each program

On its own motion, the Department moves into the evidentiary record of this proceeding the Company's responses to Information Requests DPU 1-1, DPU 2-1 through DPU 2-9, DPU 3-1, and DPU 4-1.

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included in the 2008 Plan was cost-effective. D.P.U. 08-30, at 20.<sup>5</sup> The Department stated that it would address the Company's Revised Plan, which proposes to increase spending on residential heating programs for the 2008 season, in a subsequent Order. <u>Id.</u> at 2. This Order addresses Unitil's Revised Plan.

#### II. 2008 REVISED ENERGY EFFICIENCY PLAN

#### A. Introduction

In the Department's July 25, 2008 Letter Order at 1, we directed Unitil to submit a proposal "that will allow for the implementation of the maximum achievable level of cost-effective expenditures on residential heating programs for the remainder of 2008." In support of their proposal, the Department directed the Program Administrators to submit the following information: (1) the energy efficiency programs that are targeted at residential heating end-uses; (2) the additional dollars the company projects it can spend in a cost-effective manner; (3) the constraints that limit the additional dollars the company projects it could spend cost-effectively; (4) the additional number of residential customers that will be served; (5) the additional kilowatt-hour ("kWh") or kilowatt savings that will be achieved; (6) the dollar savings on monthly bills that additional participants will be expected to realize; (7) the effect on the cost-effectiveness of the applicable programs; and (8) the company's proposed mechanism for recovery of incremental costs. Id. at 2.

With the exception of a portion of Section VIII, the Department also approved the Settlement. D.P.U. 08-30, at 24.

#### B. Revised Plan

As summarized in Table 1, below, the Company proposes to increase spending by \$103,225<sup>6</sup> on two residential programs: (1) the MassSAVE program; and (2) the low-income retrofit program.

TABLE 1

Program	Additional Spending		Increased Savings		New Customers	Savings per month	Benefit/Cost Ratio	
	\$	% Incr.	kWh (Annual)	% Incr.		(\$)	2008 Plan	Aug 15 Filing
Mass SAVE	63,225	78.4	4,500	104.7	36	10.14 to 202.70	2.4	3.4
Low- Income Retrofit	40,000	33.8	1,600	20	7	10.14 to 202.70	3.0	2.8

See Revised Plan at 1, Att. A, C; Unitil Reply Comments at 2; Exh. DPU 3-1.

The Company states that it developed its proposed program budgets based on the current status of the programs and the ability of its low-income program vendor to complete additional work within the 2008 program year (Unitil Reply Comments at 2).

# C. Cost Recovery

The Company proposes to modify its existing energy efficiency charge ("EEC") tariff, schedule EEC, to include an energy efficiency reconciliation factor ("EERF") (Revised Plan

This dollar amount does not include incremental shareholder incentives. Including shareholder incentives, the Company's proposed increase in its 2008 budget is equal to \$107,725 (Revised Plan, Att. A, at 1-2).

at 2). The EERF is designed to reconcile the Company's energy efficiency costs in a particular program year with the revenue it receives through (1) the System Benefit Charge ("SBC"), (2) its participation in the Forward Capacity Market ("FCM"), and (3) proceeds from cap and trade programs such as the Regional Greenhouse Gas Initiative ("RGGI")<sup>7</sup> (Revised Plan at 2-3, Att. E). In addition to costs associated with program implementation and shareholder incentives, the Company proposes to recover incremental lost base revenues for energy efficiency measures installed as part of its increased spending in winter 2008, as well as in 2009 (Revised Plan at 3). The EERF would become effective on the first day of each calendar year, and would be recovered through the Company's distribution charges (Revised Plan, Att. E). The Company states that it will file the actual EERF and associated calculations as part of its 2009 energy efficiency plan (Revised Plan at 3).

#### III. COMMENTS

#### A. Introduction

The majority of comments were of a general nature, applicable to most or all of the Program Administrators' revised gas and electric plans. In addition, certain comments were specific to an individual Program Administrator's revised plan. General and company-specific comments are each summarized below.

The Company proposes that a portion of its increased costs for energy efficiency programs in 2008 and 2009 be funded from RGGI revenues (Revised Plan at 2-3).

#### B. General Comments

## 1. Program Budgets

AIM argues that the Department's request for increased funding for energy efficiency programs is an overreaction to a temporary rise in energy prices and, accordingly, that any increased spending should be delayed until 2009 (AIM Comments at 1-2). While the Attorney General does not challenge the need for increased energy efficiency funding to reduce low-income and residential customer heating bills this winter, she argues that the proposals fail to provide the detailed information required by the Department and, therefore, raise several substantive and procedural issues (Attorney General Comments at 3). For example, the Attorney General asserts that most proposals do not provide detailed budget increases, as required by the Department (id. at 4). Without such information, the Attorney General argues that the Department cannot ascertain where the additional funds will be spent, the extent that customers will benefit, or whether all proposed programs will be cost-effective (id. at 7).

DOER states that electric Program Administrators have proposed Revised Plans with significant increases of at least 30 percent over 2008 budgets for residential and low-income programs. However, DOER states that gas energy efficiency proposals vary widely (DOER Comments at 3). DOER argues that all gas proposals should increase budgets at least as much as electric proposals and that all cost-effective residential program budgets should be increased (id.).

LEAN agrees that an immediate increase in energy efficiency program budgets is necessary. Furthermore, LEAN contends that the revised plans must be approved as soon as

possible, otherwise the Program Administrators will be unable to implement the programs for this winter (LEAN Comments at 1-2). TEC notes that the cost to advance known projects will be minimal and will not diminish program cost-effectiveness and, therefore, recommends that Program Administrators advance current heating contracts by paying contractors overtime or a performance incentive to complete projects as soon as possible (TEC Reply Comments at 2).

ENE states that, by its calculations, there is a large spread in proposed budget increases among the Program Administrators (ENE Comments at 4). So that the revised plans are directly comparable, ENE recommends that the Department or DOER require the Program Administrators to submit identical spreadsheets that include proposed spending levels by customer class on a per customer and per unit of energy sold basis (id. at 3-4). ENE also states that, in some revised plans, budgets appear to be reduced and that the Department should not approve any reductions without good reason (id. at 4).

#### 2. Funding Mechanisms

The Attorney General contends that many of the electric proposals contain insufficient detail about the sources of additional funding. The Attorney General states that, in order for the Department to approve funding mechanisms that collect additional money from customers, the Department must consider the effect on residential and commercial customers, and the availability of private or public funds (Attorney General Comments at 13, citing St. 2008 c. 169, § 11). In addition, the Attorney General argues that any new reconciling rate mechanism designed to recover incremental energy efficiency program costs must be subject to a hearing before the Department under G.L. c. 164, § 94 to establish just and reasonable rates

(id. at 14-15, citing Consumers Organization For Fair Energy Equity, Inc. v. D.P.U., 368 Mass. 599, 606 (1975)). Wal-Mart also asserts that any request to approve a funding mechanism for incremental energy efficiency expenditures requires a thorough investigation that includes discovery and an evidentiary hearing (Wal-Mart Comments at 2-3). CLF suggests that any new energy efficiency tariffs or reconciling mechanisms should be considered by the Department in a separate proceeding (CLF Comments at 1-2).

DOER states that proposals to recover lost based revenues ("LBR") through various mechanisms is a departure from current practice that must be thoroughly reviewed by the Department (DOER Comments at 3). Finally, LEAN states that significant consumer savings can only occur if energy efficiency measures are fully funded and that funding is allowed to rollover from year to year (LEAN Comments at 2).

#### 3. Scope of Proposed Energy Efficiency Programs

The Attorney General states that the revised plans go beyond the scope of the Department's directives. First, the Attorney General states that some revised plans include spending increases for programs that are not designed to reduce heating costs for residential customers (Attorney General Comments at 4-5).<sup>8</sup> In addition, the Attorney General states that

For example, the Attorney General states that nearly all gas companies and some electric companies propose to change the income eligibility level from 60 percent to 80 percent of the Commonwealth's median income for low-income energy efficiency programs (Attorney General Comments at 11). The Attorney General argues that the low-income eligibility issue is currently the subject of <a href="Investigation into Issues Affecting Low-Income Customers">Investigation into Issues Affecting Low-Income Customers</a>, D.P.U. 08-4, and, therefore, should not be considered by the Department in the instant proceeding (<a href="id">id</a>. at 11-12). In contrast, (continued...)

many proposals include new programs and program changes (<u>id.</u> at 11). The Attorney General argues that such program changes and new programs require more investigation than is allowed for in this expedited review (<u>id.</u> at 12). Accordingly, the Attorney General recommends that the Department deny any request to implement new programs or changes to existing programs (<u>id.</u>). Alternatively, the Attorney General suggests that Program Administrators could implement new pilot programs and other initiatives without Department approval if shareholders agree to fund the programs (<u>id.</u>).

Unlike the Attorney General, LEAN supports increased budgets for energy efficiency measures that are not directly related to heating (LEAN Reply Comments at 2). LEAN argues that any measure that reduces utility bills will help customers this winter (LEAN Comments at 2).

DOER states that, despite the Department's focus on approving only residential heating programs, it should consider allowing "stop-gap" proposals that address large unmet demand in cost-effective commercial and industrial ("C&I") programs (DOER Comments at 3). However, AIM contends that funding for C&I programs should not be increased this winter because the lead time to implement these programs is long (AIM Comments at 3). Rather, AIM suggests that C&I programs should be considered for budget increases in 2009 (id.).

<sup>8 (...</sup>continued)

LEAN contends that there is no valid reason to deny proposals that make energy efficiency measures more affordable to households with incomes between 60 and 80 percent of the median income (LEAN Reply Comments at 2). In its Revised Plan, Unitil did not propose to change the income eligibility level for its low-income gas programs.

Finally, CLF agrees that proposals to increase funding for C&I programs should be deferred to proceedings on the 2009 energy efficiency plans (CLF Comments at 1).

#### 4. Performance Incentives

The Attorney General suggests that Program Administrators forgo shareholder incentives to help customers this winter (Attorney General Comments at 11). DOER states that increased spending levels may necessitate adjustments to shareholder incentives to avoid inappropriate gains by Program Administrators (DOER Comments at 3).

## C. Company-Specific Comments

#### 1. <u>Program Budgets</u>

The Attorney General contends that the budget information provided by Unitil lacks details on information that is necessary for the Department to approve the Revised Plan (Attorney General Comments at 9). Specifically, the Attorney General states that Unitil fails to provide: (1) a value for the additional dollars that they propose to spend on energy efficiency programs targeted at end-uses; (2) a sufficient explanation of the lack of funding constraints; (3) the monetary savings customers are expected to realize on their monthly bills; and (4) data regarding the effect on the program cost-effectiveness (id. at 9-10).

In its reply comments and its responses to the Department's information requests, Unitil provided additional information in several areas identified by the Attorney General as lacking.

Unitil argues that when the revised 2008 program budgets are compared to its original 2008

Plan, the additional dollars the Company is proposing to spend is evident (Unitil Reply

Comments at 1). Unitil states that it developed its Revised Plan based on its understanding of

the limitations of its low-income program vendor to ensure the proposed additional funds could be spent cost-effectively (<u>id.</u> at 2). Unitil states that it is difficult to provide a precise number for the actual monthly dollar savings customers are expected to realize but it estimates that the potential saving are between \$10.14 and \$202.70 per month for electric customers (<u>id.</u>). Additionally, Unitil states that it submitted revised appendices to its Revised Plan, further detailing the cost-effectiveness of each program (<u>id.</u> at 2-3)

#### 2. Funding Mechanism

The Attorney General and Wal-Mart both comment on Unitil's proposed EEC tariff. The Attorney General states that the Company fails to provide important details about the magnitude and effect of the tariff changes on customer rates and argues that the Department should either reject outright or request clarification and modification of the proposed tariff (Attorney General Comments at 15). Further, the Attorney General and Wal-Mart contend that Unitil's proposed tariff will increase rates and, therefore, must be subject to a hearing pursuant to G.L. c. 164, § 94 to determine whether the new rates are just and reasonable (Attorney General Comments at 14-15, Wal-Mart Comments at 2-3). Wal-Mart recommends that the Department delay a decision on the Company's proposed tariff changes until a full investigation can be conducted (Wal-Mart Comments at 4).

Unitil argues that the Attorney General and Wal-Mart are incorrect in their assertion that a general rate case is required for approval of its proposed EEC tariff (Unitil Reply Comments at 3). Unitil submits that its proposal is consistent with the Department's longstanding policy of allowing the recovery of energy efficiency costs outside of rate

proceedings as part of demand side management programs (<u>id.</u>). Unitil states that the detail the Attorney General argues is lacking, such as the increase in charges, customer impacts, and quantification of LBR, will be included in Unitil's 2009 energy efficiency plan (id.).

ENE supports Unitil's proposal to use a portion of RGGI allowance revenues to fund expanded low-income programs in proportion to a utility's share of eligible customers (ENE Comments at 6).

#### IV. ANALYSIS AND FINDINGS

#### A. Introduction

In order for the increased spending to provide benefits to customers during the 2008 winter season, it is necessary for the Company to accelerate implementation of cost-effective energy efficiency programs as soon as possible. Nevertheless, the Department has the obligation to apply its review criteria in the Energy Efficiency Guidelines, which require that the Company's energy efficiency programs be cost-effective. Energy Efficiency Guidelines §§ 4.2.1(a), 6.2.

An energy efficiency program is deemed cost-effective if its benefits are equal to or greater than its costs, as expressed in present value terms. The Department evaluates program cost-effectiveness using the Total Resource Cost ("TRC") test, which considers the costs and benefits to both the energy system and the participating customers. <u>Id.</u> at § 3. Energy system costs are comprised of two components: (1) Program Administrator costs, including costs to develop, plan, administer, implement, market, monitor and evaluate programs; and (2) a performance-based shareholder incentive. Id. at § 3.2.2. Program participant costs include all

costs incurred by customers as a result of their participation in the programs, net of company rebates and other incentives. Id. at § 3.2.3.

#### B. Revised Plan

The Company proposes to increase spending on two residential heating programs: the MassSAVE program and the low-income retrofit program. As discussed in Section II.B, above, the Company provided information on: (1) the additional dollars it proposes to spend; (2) the additional kWh savings that it expects to achieve; (3) the additional number of customers that will be served; (4) the dollar savings on monthly bills that additional participants will be expected to realize; and (5) the benefit/cost ratio with the increased spending levels. The Company projects that both programs will remain cost-effective at the increased spending levels, with the benefit/cost ratio for the MassSAVE program equal to 3.4, and the benefit/cost ratio for the low-income retrofit program equal to 2.8 (Exh. DPU 3-1). The Company also discussed the steps it took to ensure that the proposed additional funds could be spent cost-effectively (Unitil Reply Comments at 2).

The Attorney General argues that the information submitted by Unitil did not satisfy the requirements set forth in the Department's July 25, 2008 Letter Order (Attorney General Comments at 4, 9-10). In response, Unitil provided additional information in its reply comments. The Department concludes that, based on the information included in its Revised Plan, reply comments, and responses to Department information requests, the Company has (1) satisfied the requirements set forth in our July 25, 2008 Letter Order, and (2) sufficiently demonstrated the cost-effectiveness of the MassSAVE and low-income retrofit programs.

Accordingly, the Department directs the Company to revise its 2008 budgets for these programs consistent with spending levels included in its Revised Plan.

#### C. Cost Recovery

As discussed above, the Company proposes a new cost recovery mechanism that calls for an annual reconciliation of its energy efficiency costs and revenue, to be recovered through its distribution charges. Several commenters recommended that the Department defer consideration of the Company's cost recovery proposal mechanism until a later date, stating that the proposal raises issues that cannot be satisfactorily addressed in this proceeding, given its expedited nature (Attorney General Comments at 13-15; CLF Comments at 1-2; Wal-Mart Comments at 2-3). The Company, however, disagrees that its cost recovery proposal must be subject to a hearing before the Department and submits that its proposal is consistent with the Department's longstanding policy of allowing the recovery of energy efficiency costs outside of base rate proceedings as part of demand side management programs (Unitil Reply Comments at 3).

The Company's proposed tariff represents a departure from traditional demand-side management cost recovery mechanisms and requires further investigation. Therefore, the Department will not consider at the present time the Company's proposed tariff. The Company will be allowed to recover the increased 2008 budget amounts approved in this Order through its 2009 energy efficiency budget.<sup>9</sup> The Department expects that the 2009 energy

Consistent with past practice, the Company may recover carrying costs associated with (continued...)

efficiency budgets will include revenues from the SBC, FCM, RGGI, and, if necessary, from a fully reconciling distribution charge, pursuant to the Green Communities Act. G.L. c. 25 § 20(d)(2). The under-recoveries from 2008 residential programs should be recovered from 2009 residential budgets. For low-income programs, 2008 under-recoveries should be collected from the 2009 budgets of all customer classes, based on each class' proportional contribution to low-income programs in the 2009 energy efficiency plan budgets.

Although the Department will not consider the Company's proposed cost recovery mechanism in this Order, we find it appropriate and necessary to address the Company's proposal to recover lost base revenue associated with the savings that result from the increased spending for the remainder of 2008. In Rate Structures That Will Promote Efficient

Deployment of Demand Resources, D.P.U. 07-50-A at 81-84 (2008), the Department stated that LBR "can serve as a useful tool to accommodate an orderly transition to the implementation of decoupling for all distribution companies." For electric distribution companies, the Department found that LBR recovery for incremental efficiency savings would apply to measures installed "beginning in 2009 and extending through the term of their initial three-year energy efficiency plans (i.e., through 2012)...." The Department directed

<sup>(...</sup>continued) the amount by which its 2008 energy efficiency expenditures exceed its revenues. See Fitchburg Gas and Electric Light Company, D.P.U. 08-30, at 24 (2008).

The Department defined incremental efficiency savings as those savings that exceed the efficiency savings from a company's 2007 energy efficiency activities. D.P.U. 07-50 at 83.

electric distribution companies that seek LBR recovery to do so in conjunction with the filing of their 2009 energy efficiency plans. D.P.U. 07-50-A at 83. Accordingly, the Department does not approve the Company's proposal to recover lost base revenue for incremental savings that result from the additional measures installed during winter 2008.

## V. ORDER

ORDERED: That except for the proposed cost recovery mechanism, as discussed in Section IV (C), Unitil's revised electric energy efficiency plan for calendar year 2008 is APPROVED; and it is

Accordingly, after due notice, opportunity for comment, and consideration, it is

<u>FURTHER ORDERED</u>: That Unitil shall comply with all other directives contained in this Order.

By Order of the Department,
/s/
Paul J. Hibbard, Chairman
Tuur V. Tiloouru, Chamman
<u>/s/</u>
W. Robert Keating, Commissioner
/s/
Tim Woolf, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within 20 days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of 20 days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971.